

AMENDED IN SENATE JUNE 21, 2010

AMENDED IN ASSEMBLY MAY 12, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2396

Introduced by Assembly Member Solorio

February 19, 2010

An act to amend Section 11751.5 of the Insurance Code, relating to workers' compensation insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2396, as amended, Solorio. ~~Workers'—compensations~~ *compensation* insurance: rating organizations: statistical agent.

Existing law requires the Insurance Commissioner to designate a licensed rating organization, as defined, as his or her statistical agent to gather and compile workers' compensation insurers' loss and expense experience statistics, and all licensed rating organizations are required to report loss and expense experiences of their member workers' compensation insurers to the statistical agent. Subject to reasonable rules approved by the commissioner, the statistical agent is required to make available those compiled experience statistics to all licensed rating organizations. The statistical agent is authorized to make a reasonable charge to other ratings organizations for the expense incurred by it in combining, tabulating, and compiling the experience of all workers' compensation insurers.

This bill would require that all materials and documents prepared or used by the designated statistical agent for the purpose of developing pure premium rates, except as specified, be made available to the public

and that copies of these materials and documents be made available to the public for inspection at no charge. The bill would provide that members of the public may purchase these ratemaking related materials and documents at actual cost, as specified.

~~This bill would prohibit the commissioner from designating a rating organization as his or her statistical agent unless the rating organization agrees to comply with the Bagley-Keene Open Meeting Act and the California Public Records Act, with regard to those activities that are associated with its role as the commissioner's statistical agent.~~

~~The bill would require any dispute arising between the commissioner's designated rating organization and any party seeking to enforce the Bagley-Keene Open Meeting Act or the California Public Records Act be resolved in a court of competent jurisdiction, and would provide that the commissioner shall not be obligated to defend or represent the rating organization in those proceedings.~~

~~The bill would prohibit the designated rating organization from releasing any information or communications, pursuant to the Bagley-Keene Open Meeting Act or the California Public Records Act, determined to be confidential, as provided.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11751.5 of the Insurance Code is
- 2 amended to read:
- 3 11751.5. (a) The commissioner, after notice and hearing, may
- 4 promulgate reasonable rules and statistical plans, which may be
- 5 modified from time to time and which shall be used thereafter in
- 6 the recording and reporting by insurers of their loss and expense
- 7 experience in order that the experiences of all insurers may be
- 8 made available in such form and detail as may be necessary to aid
- 9 the commissioner in administering the provisions of Article 2
- 10 (commencing with Section 11730).
- 11 (b) The commissioner shall designate a rating organization
- 12 licensed under this article as his or her statistical agent to gather
- 13 and compile such experience statistics and all licensed rating
- 14 organizations shall report the experience of their members to such
- 15 designated rating organization. Subject to reasonable rules
- 16 approved by the commissioner, such designated rating organization

1 shall make such experience statistics, when compiled, available
2 to all licensed rating organizations and may make a reasonable
3 charge to other rating organizations for the expense incurred by it
4 in combining, tabulating and compiling the experience of all
5 workers' compensation insurers.

6 ~~(e) (1) The commissioner shall not designate a rating~~
7 ~~organization as his or her statistical agent unless that rating~~
8 ~~organization agrees to comply with the Bagley-Keene Open~~
9 ~~Meeting Act (Article 9 (commencing with Section 11120) of~~
10 ~~Chapter 1 of Part 1 of Division 3 of Title 2 of the Government~~
11 ~~Code) and the California Public Records Act (Chapter 3.5~~
12 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
13 ~~Government Code), with regard to those activities that are~~
14 ~~associated with its role as the commissioner's statistical agent.~~

15 ~~(2) Notwithstanding Section 11753.1, any dispute arising~~
16 ~~between the commissioner's designated rating organization and~~
17 ~~any party seeking to enforce the Bagley-Keene Open Meeting Act~~
18 ~~(Article 9 (commencing with Section 11120) of Chapter 1 of Part~~
19 ~~1 of Division 3 of Title 2 of the Government Code) or the~~
20 ~~California Public Records Act (Chapter 3.5 (commencing with~~
21 ~~Section 6250) of Division 7 of Title 1 of the Government Code)~~
22 ~~shall be resolved in a court of competent jurisdiction, and the~~
23 ~~commissioner shall not be obligated to defend or represent the~~
24 ~~designated rating organization in those proceedings.~~

25 ~~(3) As the commissioner's statistical agent, the designated rating~~
26 ~~organization shall not release any information or communications;~~
27 ~~pursuant to the Bagley-Keene Open Meeting Act (Article 9~~
28 ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~
29 ~~Division 3 of Title 2 of the Government Code) or the California~~
30 ~~Public Records Act (Chapter 3.5 (commencing with Section 6250)~~
31 ~~of Division 7 of Title 1 of the Government Code), determined to~~
32 ~~be confidential pursuant to any provision of this code.~~

33 *(c) All materials and documents prepared or used by the*
34 *designated statistical agent for the purpose of developing pure*
35 *premium rates, other than proprietary materials and documents*
36 *owned or licensed by third parties, shall be available to the public*
37 *and copies of these materials and documents shall be made*
38 *available to the public for inspection at no charge. Members of*

- 1 *the public may purchase these ratemaking related materials and*
- 2 *documents from the designated statistical agent at actual cost.*

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